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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. **2012-48**

12 **NICHOLAS JAMES SCHMITZ**
13 1346 Stevenson Street, Apt. B302
San Francisco, CA 94103

ACCUSATION

14 **Registered Nurse License No. RN 738152,**

15 Respondent.
16

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
21 Consumer Affairs.

22 2. On or about October 10, 2008, the Board of Registered Nursing issued Registered
23 Nurse License Number RN 738152 to Nicholas James Schmitz (Respondent). The Registered
24 Nurse License was in full force and effect at all times relevant to the charges brought herein and
25 will expire on February 29, 2012, unless renewed.

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"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

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8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

DRUGS

Marijuana is a Schedule I controlled substance as designated by Health and Safety Code section 11054(d)(13), and a dangerous drug as designated by Business and Professions Code section 4022. It is a hallucinogenic drug.

Methamphetamine is a Schedule II controlled substance as designated by Health and Safety Code section 11055(d)(2) and a dangerous drug as designated by Business and Professions Code section 4022. It is a stimulant drug.

Ecstasy is a street name for **Methylenedioxymethamphetamine (MDMA)**, a Schedule I controlled substance as designated by Health and Safety Code section 11054(d)(6) and a dangerous drug as designated by Business and Professions Code section 4022.

Cocaine is a Schedule I (in base/rock/crack form) or Schedule II controlled substance as designated by Health and Safety Code sections 11054(f)(1) and 11055(b)(6), and a dangerous drug as designated by Business and Professions Code section 4022. It is a narcotic drug.

Mushrooms or “Shrooms” contain psilocybin and/or psilocyn which are Schedule I controlled substances as designated by Health and Safety Code section 11054(d)(18) and (19), and are dangerous drugs as designated by Business and Professions Code section 4022. Psilocybin and psilocyn are hallucinogenic drugs.

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1 FIRST CAUSE FOR DISCIPLINE

2 (Illegally Obtain or Possess Controlled Substances)

3 9. Respondent is subject to disciplinary action under Code section 2761(a),
4 unprofessional conduct, as defined in Code Section 2762(a), in that between March 2010 and
5 December 2010, Respondent illegally obtained and/or possessed the following drugs and or
6 controlled substances: cocaine, methamphetamine, mushrooms and ecstasy. In addition, between
7 March 2010 and October 18, 2010, Respondent illegally obtained and/or possessed marijuana.

8 SECOND CAUSE FOR DISCIPLINE

9 (Use of Controlled Substances)

10 10. Respondent is subject to disciplinary action under Code section 2761(a),
11 unprofessional conduct, as defined in Code Section 2762(b), in that between March 2010 and
12 December 2010, Respondent illegally used the following drugs and or controlled substances:
13 cocaine, methamphetamine, mushrooms and ecstasy. In addition, between March 2010 and
14 October 18, 2010, Respondent illegally used marijuana.

15 PRAYER

16 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
17 and that following the hearing, the Board of Registered Nursing issue a decision:

18 1. Revoking or suspending Registered Nurse License Number RN 738152, issued to
19 Nicholas James Schmitz

20 2. Ordering Nicholas James Schmitz to pay the Board of Registered Nursing the
21 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
22 Professions Code section 125.3;

23 3. Taking such other and further action as deemed necessary and proper.

24 DATED: July 21, 2011

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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